



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,573	07/03/2001	Charles E. Reddick	36968-259627	2886

36192 7590 03/13/2006

CANTOR COLBURN LLP - BELLSOUTH
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

EXAMINER

VO, TED T

ART UNIT	PAPER NUMBER
----------	--------------

2191

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/898,573

Applicant(s)

REDDICK ET AL.

Examiner

Ted T. Vo

Art Unit

2191

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 36-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. This action is in response to the amendment filed on 09/01/2005, entered by the filing RCE on 11/02/05.

Claims 36-50 are pending in this application.

Response to Amendment

2. The Claims in the Amendment are object to. Applicants are noted that the printing quality of the Claims is very poor. See the claim received by the Office herein (see attachment).

Response to Arguments

3. Applicants arguments given in the remarks filed on 09/01/05 have been fully considered. Applicants traverse the rejection; however, Applicants fail to address what the patently distinct features are. According to MPEP 714.04, it requires pointing out patentable features in the claims.

Analyzing the claim, for example independent Claim 42, it recites a connection, a network server, a mobile computer, telecommunication equipment; it has elements such as a technician, a downloaded program, and self-guide instructions; it requires manual acts to complete a process. All these elements had existed before the time of the filing.

Discussing about the connection. The connection of a server, a mobile computer, and telecommunication equipment are the input/output connections that are required. It cannot be a patentable feature.

Discussing about the downloading. It has been happened between two connected memories, there exists a means of downloading via the I/O connection. A network is a typical; i.e. it provides downloading, where a downloaded element could be a message, a file, data, a program, a software application.

Discussing about a technician and a guide. It has been known that a guide is only information that cannot be patentable. We can see a guide everywhere. It is in form of a book, a text, a note, a webpage in the

Art Unit: 2191

Internet. As by its meaning, "guide", it is to provide instructions for doing something. An Internet user uses navigation in a web browser to search for a server or to link to a server which provides software and then downloads whatever it is available in the network. A technician, representing a manual act, reads a guide even in a guidebook or from the screen of a display device and follows the instructions in order to do a job. A shopper follows instructions attached in the buying items to assemble. Such things cannot be patentable features because of manual acts.

Discussing about sending an email. The term "email" has been very well known in the network. A person who uses a computer connected with a network can send an email to another computer in the network. He can write whatever in the email and send it.

With regards to the amendment, *"sending an electronic mail message to each mobile computer in the network when the upgrade version of the software program is available on the server"*, and Applicants argued that Flynn does not teach sending an electronic message as such claiming.

Examiner disagrees. Sending an electronic mail message to each mobile computer in the network is a common feature of the network. It is continued after the technician who follows the instructions of the guide to perform the software transferring.

These claimed features themselves recite the prior arts of manual acts. It should be noted that a manual act couldn't be patentable. Even a process that preempts such a manual act, it has been addressed in a court case:

In re Venner, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958) (Appellant argued that claims to a permanent mold casting apparatus for molding trunk pistons were allowable over the prior art because the claimed invention combined "old permanent-mold structures together with a timer and solenoid which automatically actuates the known pressure valve system to release the inner core after a predetermined time has elapsed." The court held that broadly providing an **automatic or mechanical means to replace a manual activity** which accomplished the same result is not sufficient to distinguish over the prior art.)

Since the amended feature, "sending an electronic message...", is included in every computer of the network, clearly Flynn would not be exception.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A person shall be entitled to a patent unless –

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 36-50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flynn et al., PCT No. WO 9939488 A1, "Communication System for Mobile Data transfer", in view of www.Rogers.com, "Portage™ Wireless Connectivity, Quick Start Guide (hereafter: Rogers), 10-2000.

Given the broadest reasonable interpretation of followed claims in light of the specification:

As per claim 42: Flynn discloses

A method of using computerized guide system for transferring a software program from a server in a network to telecommunications equipment in a remote location (Flynn: page 2, lines 21-28, "a set of protocol") using a mobile computer (Flynn: Figure 6, Reference number 48), comprising:

loading an updated version of a software program on the network server (Flynn: Figure 6, referring Reference number 25, where the software program is downloaded from);

[providing the guide adapted for independent use by a technician having self-guide instructions for accessing the software program on the network server, downloading the software program from the network server to the mobile computer],

connecting the mobile computer to the telecommunications equipment, accessing the software program downloaded onto the mobile computer, and transferring the software program from the mobile computer to the telecommunications equipment (Flynn: Figure 6, and see page 13, lines 9-27); and

Art Unit: 2191

[following the instructions on the guide to access the software program on the network server, download the software program from the network server to the mobile computer],

connect the mobile computer to the telecommunications equipment, access the software program downloaded onto the mobile computer, and transfer the software program from the mobile computer to the telecommunications equipment (Flynn: Figure 6, referring Reference number 49, where the connection is established by terminal module 48 ('mobile computer') and application module 45, 46, or 47 ('communications equipment')); and sending an electronic mail message to each mobile computer in the network when the upgrade version of the software program is available on the server (provided by the network and the user who uses the Flynn's.)

Flynn does not clearly teach the "guide" shown by the limitations within the square brackets above.

Rogers discloses,

"providing the guide adapted for independent use by a technician having self-guide instructions for accessing the software program on the network server, downloading the software program from the network server to the mobile computer,

[connect the mobile computer to the telecommunications equipment, access the software program downloaded onto the mobile computer, and transfer the software program from the mobile computer to the telecommunications equipment];

following the instructions on the guide to access the software program on the network server, download the software program from the network server to the mobile computer" (The Guide shown by Rogers is the reference itself (see whole reference) and/or the Online Guide in CE windows (See reference started at page 50), which is accessible via internet. The Guide consists of the instructions and figures readable in text format. Therefore, all users or service technicians who have the similar device installed with a computer windows can uses this guide to download or transfer Software online (at the same time) via connections).

Art Unit: 2191

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings, the details in the Guide in the teaching of Rogers and the basic guide (Flynn: Client FTP) in the File Transfer Protocol as taught by Flynn.

Doing so would conform to a standard of guidance that includes texts and guiding instructions written by a technical writer (i.e. it looks like when selling a device it is always included with guiding instructions/booklets for how to use the device), and thus, with the online guide, it would instruct a person who has less technical knowledge could do basic things, thus it has no need for providing costly training.

As per Claim 36: In further view of *telecommunications equipment* as taught by Flynn

Rogers further discloses "*wherein instructions for accessing, downloading, and transferring the software program from the network server re accessible at a plurality of locations at the same time to a plurality of technicians servicing the telecommunications equipment*", because instructions are provided online.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine this teaching with the teaching of connecting *telecommunications equipment* as taught by Flynn. Doing so would take advantage of networks and thus allow software to be accessible at many different locations, and thus, no need to bring equipments back and forth.

With regards to limitations of Claims 37-41, 44, 48, 49, 50 in further view of Flynn:

Roger discloses instructions addressed in Claims 7-41, 44, 48, 50

As per Claim 37: Regarding the guiding means, Rogers further discloses, "*wherein at least one set of instructions further comprises a display of an icon*" (Mere instructions such as all symbols shown in a webpage. See page 27, second and third paragraph, "www.palmn.com", this web site provides source of software for downloading, furthermore, "Icons" are common used by a website for graphically indicating its type of software. For example, step 3, page 53, shows icons for indicating types of software used in the CE windows; and further noted that Refer to the contents in the guide)).

Art Unit: 2191

As per Claim 38: Regarding the guiding means, Rogers discloses, "*wherein the icon is associated with the software program and the at least one set of instructions further comprises a description of the software program associated with the icon*", in the CE windows.

As per Claim 39: Regarding the guiding means, Rogers discloses, *wherein the guide comprises a printed guide*" (The reference is a printed guide)

As per Claim 40: Regarding the guiding means, Rogers discloses, "*wherein the guide comprises an on-line guide*" (see page 3, Web Acceleration).

As per Claim 41: Rogers discloses, "*wherein providing the guide further comprises providing an online guide and wherein after followings the instructions in the printed guide the method further comprises following the instruction in the on-line guide only*" (The reference a web browser, it is an online guide. The mailed reference to Applicants is printed guide, and it mentions Internet guide by using network connections).

As per Claim 44: Regarding the claimed limitation, Roger discloses, "*comprise instructions for accessing software programs for the telecommunications equipment of a plurality of vendors*" (Climing texts, mere instruction. Refer to the whatever contents in the/a guide).

As per Claim 48: Regarding the claimed limitation, it is a mere data, Roger discloses guide/instructions.

As per Claim 49: Regarding claimed limitation, Roger discloses guide/instructions.

As per Claim 50: Regarding the claimed limitation, it is a mere data, Roger discloses guide/instructions.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to further include in the Flynn with guide/instructions in the Guide of Rogers.

Doing so would conform to a standard of guidance that includes texts and instructions (i.e. it looks like when selling a device it is always included with guiding instructions/booklets for how to use the device), and thus, with the online guide, it would instruct a person who has less technical knowledge could do basic things, thus it has no need for providing costly training.

Art Unit: 2191

With regards to limitations of Claims 43, 45-47, Flynn further discloses:

As per Claim 43: Regarding the basic guide, Flynn further discloses, "*loading an updated version of software program on the network server further comprises loading the updated version of the software program for each of a plurality of equipment in use in a telecommunications system*" (Flynn: See Figure 6).

As per Claim 45: Regarding the basic guide, Flynn further discloses, "*wherein the telecommunications equipment comprises a multiplexer*" (Flynn: See Figure 6, multi-connection to devices 45, 46, and 47).

As per Claim 46: Regarding the basic guide, Flynn further discloses, "*software program comprises a digital loop electronic software program*" (Flynn: See page 9, lines 1-7, a plurality of separate application modules: '*a digital loop electronics software program*').

As per Claim 47: Regarding the basic guide, Flynn further discloses, "*wherein the software program comprises a testing software program*" (Flynn: See page 9, lines 1-7, a plurality of separate application modules: '*a testing software program*').

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to further include these teachings of Flynn and the Guide of Rogers.

Doing so would conform to a standard of guidance that includes texts and instructions (i.e. it looks like when selling a device it is always included with guiding instructions/booklets for how to use the device), and thus, with the online guide, it would instruct a person who has less technical knowledge could do basic things, thus it has no need for providing costly training.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ted T. Vo whose telephone number is (571) 272-3706. The examiner can normally be reached on 8:00AM to 5:30PM.

Art Unit: 2191

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Y. Zhen can be reached on (571) 272-3708.

The facsimile number for the organization where this application or proceeding is assigned is the Central Facsimile number **571-273-8300**.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ted T. Vo
Primary Examiner
Art Unit 2191
March 03, 2006

Attachment:

Attachment

providing an online guide and wherein after following the instructions in the printed guide the method further comprises following the instructions in the on-line guide only.

42. (Currently Amended) The method of claim 35, further comprising: A method of using a computerized guide for transferring software from a network server to telecommunications equipment in a remote location using a mobile computer, comprising:

.....loading an updated version of a software program on the network server;

.....providing the guide adapted for independent use by a technician having self-guided instructions for accessing the software program on the network server, downloading the software program from the network server to the mobile computer, connecting the mobile computer to the telecommunications equipment, accessing the software program downloaded onto the mobile computer, and transferring the software program from the mobile computer to the telecommunications equipment;

.....following the instructions in the guide to access the software program on the network server, download the software program from the network server to the mobile computer, connect the mobile computer to the telecommunications equipment, access the software program downloaded onto the mobile computer, and transfer the software program from the mobile computer to the telecommunications equipment; and

sending an electronic mail message to each mobile computer in the network when the updated version of the software program is available on the server.

43. (Currently Amended) The method of claim 3542, wherein loading an updated version of a software program on the network server further comprises loading the updated version of